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IN THE

Supreme Court of the United States

BANK OF AMERICA CORP., *et al.*,
Petitioners,

v.

CITY OF MIAMI,
Respondent.

WELLS FARGO & CO., *et al.*,
Petitioners,

v.

CITY OF MIAMI,
Respondent.

On Writs of Certiorari to the United States Court of Appeals for the Eleventh Circuit

BRIEF OF *AMICI CURIAE* FRATERNAL ORDER OF POLICE, MIAMI LODGE 20, and FLORIDA PROFESSIONAL FIREFIGHTERS, INC. IN SUPPORT OF RESPONDENT

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INTEREST OF *AMICI*[1]

Amici are organizations representing police officers and firefighters in Miami. These law enforcement officers have experienced first-hand the effects of the public safety risks of foreclosed, vacant homes.

Amicus the Fraternal Order of Police, Miami Lodge 20 ("Fraternal Order of Police") is the exclusive collective bargaining agent for all City of Miami police officers, through the rank of police captain. In that role, the Fraternal Order of Police negotiates with the City of Miami for all matters related to wages, hours, and terms of conditions of employment, including retirement.

Amicus the Florida Professional Firefighters, Inc. is a state-wide labor organization of the International Association of Firefighters, AFL-CIO, which is a nationwide and international labor organization. Florida Professional Firefighters is the recognized collective bargaining representative of firefighters, paramedics, emergency medical technicians, and lifeguards in regard to wages, hours, and terms and conditions of employment with the City of Miami (as well as the State of Florida and numerous counties and cities in Florida).

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[1] No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than the undersigned counsel contributed financially to its preparation or submission. The parties have consented to the filing of this brief.

SUMMARY OF ARGUMENT

A toddler drowns in the swimming pool of his neighbor's vacant house.[2] A firefighter dies falling through the floor of a vacant building.[3] A gang takes over an empty house and spray-paints it "YG" ("Young Girls") to advertise prostitution within.[4] Untended pools in foreclosed homes become breeding grounds for swarms of mosquitos and create the epicenter for America's first Zika outbreak.[5] Sexual

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[2] Megan O'Matz & John Maines, *Bad-neighbor banks neglect thousands of South Florida homes, Sun Sentinel finds*, South Florida Sun-Sentinel, Apr. 28, 2012, http://articles.sun-sentinel.com/2012-04-28/news/fl-bad-neighbor-banks-20120428_1_banks-shift-vacant-homes-vacant-properties.

[3] U.S. Gov't Accountability Off., GAO-11-93, Mortgage Foreclosures: Additional Mortgage Servicer Actions Could Help Reduce the Frequency and Impact of Abandoned Foreclosures 32 (2010), *available at* http://www.gao.gov/new.items/d1193.pdf.

[4] Michael Wilson, *Foreclosures Empty Homes, and Criminals Fill Them Up*, N.Y. Times, Oct. 14, 2011, http://www.nytimes.com/2011/10/15/nyregion/foreclosures-empty-homes-and-criminals-fill-them-up.html.

[5] Jonathan Jay, *Do vacant properties explain Miami's Zika outbreak?*, Harvard University Urban Analytics Blog, (Aug. 24, 2016), http://scholar.harvard.edu/jonjay/blog/do-vacant-properties-explain-miamis-zika-outbreak. Mosquitos breeding in abandoned pools also appear to have triggered a 2009 outbreak of dengue, the first time the disease had been seen in Florida since 1934. Sonia Shah, *How foreclosed homes and used tires can threaten public health in the age of Zika*, Washington Post, Jul. 29, 2016, https://www.washingtonpost.com/posteverything/wp/2016/07/29/how-foreclosed-homes-and-used-tires-can-affect-public-health-in-the-age-of-zika/?utm_term=.e7457e1a03f4. *See also* Jim Waymer, *'Zombie' pools could help spread mosquito-borne viruses*, Florida Today, Jul. 20, 2014,

predators use abandoned houses to rape and assault girls and women.[6] Murderers hide the bodies of their victims in vacant properties.[7]

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http://www.floridatoday.com/story/news/local/2014/07/20/zombie-pools-raise-specter-mosquito-borne-viruses/12896579/; Kristin M. Pinkston, *In the Weeds: Homeowners Falling Behind on Their Mortgages, Lenders Playing the Foreclosure Game, and Cities Left Paying the Price*, 34 S. Ill. U. L.J. 621, 637–38 (2010).

[6] *Miami Police Release Sketch of Sexual Assault Suspect*, CBS Miami, Aug. 29, 2013, http://miami.cbslocal.com/2013/08/29/miami-police-release-sketch-of-sexual-assault-suspect/; Keith Jones, *Teen Arrested in Rape, Beating Death of Woman: Miami-Dade Police*, NBC Miami, Jul. 15, 2015, http://www.nbcmiami.com/news/local/Teen-Arrested-in-Rape-Beating-Death-of-Homeless-Woman-Miami-Dade-Police-315312671.html; *Miami PD Looking For 2 People Wanted For Abduction & Sexual Assault of Child*, CBS Miami, Jun. 10, 2013, http://miami.cbslocal.com/2013/06/10/miami-pd-looking-for-2-people-wanted-for-abduction-sexual-assault-of-child. *See also* Kate Abbey-Lambertz, *Detroit's Abandoned Building Problem Is An Actual 'Blight Emergency,' Says City Manager*, Huffington Post, Sept. 16, 2013, http://www.huffingtonpost.com/2013/09/16/detroit-abandoned-building_n_3921417.html; Sarah Reese, *Gary woman pulled into vacant building, raped*, Times of Northwest Indiana, Jun. 30, 2016, http://www.nwitimes.com/news/crime-and-court/gary-woman-pulled-into-vacant-building-raped/article_7a6cf4ba-ec82-5c35-be8f-963eb2c40cb1.html; Kaitlyn Foti, *Philly man allegedly used vacant Norristown home to have sex with underage girl*, Times Herald, Feb. 10, 2016, http://www.timesherald.com/article/JR/20160210/NEWS/160219979; Alex Wigglesworth, *Girl, 16, sexually assaulted inside vacant Kensington property*, Philadelphia Inquirer, Feb. 28, 2015, http://www.philly.com/philly/news/breaking/Girl_16_sexually_assaulted_inside_vacant_Kensington_property.html.

[7] *Two Bodies Found In Backyard of Miami Home*, CBS Miami, Mar. 8, 2011, http://miami.cbslocal.com/2011/03/08/two-

This is not an apocalyptic, hypothetical future. These are the present day results of the foreclosure crisis. In communities throughout America, foreclosed, vacant properties have become havens for squatting, vandalism, drugs, and violent crime. Brave police officers and firefighters have been on the front lines, protecting communities from the dangerous fallout of rampant foreclosures.[8] And responding to these crimes has necessarily diverted law enforcement attention from other public safety concerns.

Miami is one of the hardest hit.[9] *Amici*, Miami's police officers and firefighters, are the first

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bodies-found-in-backyard-of-miami-home/. *See also* Mitch Smith and Julie Bosman, *Motel Meeting in Indiana Leads to Gruesome Confession*, N.Y. Times, Oct. 21, 2014, http://www.nytimes.com/2014/10/21/us/bodies-of-7-women-found-in-northwestern-indiana.html?_r=0; Jane Morice, *Decomposing body found in vacant home in Cleveland's South Collinwood neighborhood*, Cleveland Plain Dealer, Aug. 13, 2016, http://www.cleveland.com/metro/index.ssf/2016/08/decomposing_body_found_in_vaca_1.html.

[8] Jonathan Mummolo & Bill Brubaker, *As Foreclosed Homes Empty, Crime Arrives*, Washington Post, Apr. 27, 2008, http://www.washingtonpost.com/wp-dyn/content/article/2008/04/26/AR2008042601288.html; Carolyn Said, *Vacant foreclosed homes spawn blight, crime*, SF Gate, May 3, 2009, http://www.sfgate.com/bayarea/article/Vacant-foreclosed-homes-spawn-blight-crime-3243168.php.

[9] Sean Stewart-Muniz, *Miami tops nation with foreclosures in July*, The Real Deal, Aug. 20, 2015, http://therealdeal.com/miami/2015/08/20/miami-tops-nation-with-foreclosures-in-july/; Nat'l Fair Housing Alliance, The Banks Are Back – Our Neighborhoods Are Not: Discrimination in the Maintenance and Marketing of REO Properties 27 (Apr.

responders who have been called on by their City to respond to these threats to public safety, all while operating under fiscal constraints and staffing reductions imposed by decreased City revenues caused by plummeting home values.

The widespread harm caused by foreclosures—dangers to Miami's communities and to the health, welfare, and safety of its citizens, and decreases in its property tax revenues at the very time when its residents are most in need of *amici*'s emergency services—provide Miami standing to sue under the Fair Housing Act ("FHA"). As this Court has long recognized: "A significant reduction in property values directly injures a municipality by diminishing its tax base, thus threatening its ability to bear the costs of local government and to provide services." *Gladstone Realtors v. Vill. of Bellwood*, 441 U.S. 91, 110–11 (1979). A municipality also has standing by virtue of the "[o]ther harms flowing from the realities" of housing discrimination, including non-

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4, 2012), *available at* http://www.nationalfairhousing.org/LinkClick.aspx?fileticket=sNHLaQE4WSw%3d&tabid=3917&mid=9405; Shah, *supra* n. 5 ("Even today, there are more than 1 million abandoned properties across the country, and Florida counts more 'zombie closures' than almost every other state."); Ingrid Gould Ellen, Josiah Madar, & Mary Weselcouch, NYU Furman Center, The Foreclosure Crisis and Community Development: Exploring REO Dynamics in Hard-Hit Neighborhoods 10 (Apr. 2013), *available at* http://furmancenter.org/files/publications/REOHardHitWorkingPaperApril2013.pdf ("Of our three study areas, Miami-Dade County had by far the largest absolute number of REO [real-estate owned] properties since the onset of the foreclosure crisis, with a peak of nearly 12,800 in November 2010.").

economic, intangible harms such as depriving a city "of its racial balance and stability." *Id.*; *see also Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 262–63 (1977) (holding nonprofit had standing under the FHA based on its "interest in making suitable low-cost housing available" because "[i]t has long been clear that economic injury is not the only kind of injury that can support a plaintiff's standing."); *Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205, 208 (1972) (holding tenants had standing under FHA because they "lost the social benefits of living in an integrated community," "missed business and professional advantages," and "suffered embarrassment and economic damage").

Here, Bank of America and Wells Fargo allegedly engaged in redlining and reverse redlining, targeting Miami's minority residents for unfavorable mortgages that were far more likely to foreclose, which predictably triggered high numbers of foreclosures in predominantly minority neighborhoods in Miami. *See* J.A. 23-104 (Complaint against Bank of America) ¶¶ 5-15, 151-59; J.A. 266-349 (Complaint against Wells Fargo) ¶¶ 5-15, 171-79. Miami's ensuing foreclosure crisis threatened public safety, which is deeply destabilizing, and had a significant financial impact on the City's budget. These economic and non-economic effects of these banks' discriminatory practices on Miami are nearly identical to the harms alleged by the Village of Bellwood in *Gladstone v. Bellwood*; just like Bellwood, Miami has standing under the FHA. *See Gladstone*, 441 U.S. at 110–11.

ARGUMENT

I. VACANT FORECLOSED HOMES LEAD TO INCREASED PUBLIC SAFETY RISKS AND INCREASED COSTS FOR MUNICIPALITIES

As documented by the United States Government Accountability Office, which analyzed reports from local officials all over the country, foreclosed "vacant and abandoned properties were subject to break-ins, drug activity, prostitution, arson, and squatting, among other things."[10] When banks or mortgage lenders own properties that have gone through the foreclosure process, those properties "often sit vacant for extended periods."[11] During the period of the recent foreclosure crisis, there was a 51% rise in the number of vacant properties throughout the country and an 89.5% rise in Florida.[12] The GAO concluded that these unattended properties "pose a threat to public safety" by attracting crime and causing "blight."[13]

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[10] U.S. Gov't Accountability Off., *supra* n. 3, at 32.

[11] Ellen, *supra* n. 9, at 1.

[12] U.S. Gov't Accountability Off., GAO-12-34, Vacant Properties: Growing Number Increases Communities' Costs and Challenges 1, 14 (2011), *available at* http://www.gao.gov/assets/590/586089.pdf (analyzing data between 2000 and 2010).

[13] *Id* at 2.



Source: City of Miami Files – Foreclosed Homes

The social science research concurs with the GAO's findings: foreclosed vacant homes are "magnets for criminal activity, specifically violent crime."[14] The resulting crimes run the gamut from

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[14] Lawyers' Comm. for Better Housing, Vacant Properties: Havens for crime in a city plagued by violence 3 (April 2013), *available at* http://lcbh.org/sites/default/files/resources/2013-LCBH-Vacant-Properties-and-Crime-Report.pdf. *See also* Dan Immergluck & Geoff Smith, *The Impact of Single-family Mortgage Foreclosures on Neighborhood Crime*, 21 Housing Studies 851, 851 (2006) ("A standard deviation increase in the foreclosure rate (about 2.8 foreclosures for every 100 owner-occupied properties in one year) corresponds to an increase in neighborhood violent crime of approximately 6.7 percent."); Ryan M. Goodstein & Yan Y. Lee, *Do Foreclosures Increase Crime?* 4-5 (FDIC Center for Financial Research, Working Paper No. 2010-05, 2010) ("We find that foreclosures have a positive effect on burglary . a one percentage point increase in the one-year lagged county foreclosure rate increases the burglary rate by 10.1 percent we also find a statistically

"drug dealing, prostitution, looting, arson, [and] gang activity, [to] murder. . foster[ing] a sense of chaos."[15] As one police officer described it: foreclosed, vacant properties are "a haven for bad people doing bad things."[16] Another officer explained: "Just about every foreclosed property on my beat has some kind of problem."[17]

The crime is not limited to the vacant properties themselves. The surrounding neighborhoods suffer from the spillover effects. "Studies show that increased rates of foreclosure in a neighborhood at large lead to a corresponding rise in the total amount of violent crime in that neighborhood."[18] That's

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significant effect of foreclosures on larceny and on aggravated assault.").

[15] Creola Johnson, Fight Blight: Cities Sue to Hold Lenders Responsible for the Rise in Foreclosures and Abandoned Properties, 2008 Utah L. Rev. 1169, 1182 (2008). *See also* Courtney Hunter, Reducing the Spillover Costs of Foreclosure: Boston's Block-by-Block Approach to Saving Neighborhoods from Foreclosure Blight, 29 Rev. Banking & Fin. L. 533, 535–36 (2010); Mummolo, *supra* n. 8; David Kane, Restoration Remedies for Remaining Residents, 61 UCLA L. Rev. 812, 823–24 (2014).

[16] William C. Apgar, Mark Duda, & Rochelle Nawrocki Gorey, Homeownership Preservation Foundation, The Municipal Cost of Foreclosures: A Chicago Case Study 20 (Feb. 27, 2005); *see also* Wilson, *supra* n. 4.

[17] Said, *supra* n. 8.

[18] Lea Deutsch, Collateral Damage: Mitigating the Effects of Foreclosure in Communities, 22 Temp. Pol. & Civ. Rts. L. Rev. 203, 207 (2012).

dangerous for residents and it's dangerous for the police officers and firefighters who have to respond.[19]

Study after study confirms that "foreclosures actually lead to crime:"[20]

- In Chicago, between 2005 and 2012, even while overall crime dropped 27%, crimes occurring in abandoned properties increased 48%; approximately 7 crimes occur in vacant properties per day; and, on average, 3 criminal sexual assaults and 4 weapons violations occur in abandoned buildings or vacant lots per month.[21]
- In Philadelphia, vacancy was found to be "the strongest predictor" of the risk of assault.[22]

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[19] "Regardless of the magnitude of the crime they are investigating, the officers' safety is always an issue because vacant buildings are often structurally compromised." Apgar, *supra* n. 16, at 20. *See also* U.S. Gov't Accountability Off., *supra* n. 3, at 32; National Vacant Properties Campaign, Vacant Properties: The True Costs to Communities 4 (Aug. 2005), *available at* http://www.smartgrowthamerica.org/documents/true-costs.pdf.

[20] NYU Furman Center, Do Foreclosures Cause Crime? 4 (Feb. 2012), *available at* http://furmancenter.org/files/publications/DoForeclosuresCauseCrime.pdf. *See also supra* n. 14.

[21] Lawyers' Comm. for Better Housing, *supra* n. 14, at 2.

[22] Keith Fudge, Rob Wellburn, & Sage Computing Staff, *Vacant and Abandoned Properties: Turning Liabilities Into Assets*, Evidence Matters (U.S. Dep't of Hous. & Urb. Dev.), Winter 2014, at 5, *available at* https://www.huduser.gov/portal/periodicals/em/EM_Newsletter_winter_2014.pdf.

- In Pittsburgh, "the rate of violent crime within 250 feet of the [vacant] property is 15 percent higher than the rate in the area between 250 and 353 feet from the property."[23]
- Charlotte-Mecklenburg (North Carolina) had "an annual average of 1.7 violent crime incidents per 100 houses in high-foreclosure clusters," which was "significantly higher" than in other areas.[24]
- In New York, the start of a foreclosure proceeding is associated with "a 1.5 percent increase in violent crime" on the block.[25]
- In Austin, "blocks with vacant buildings had 3.2 times as many drug calls to police, 1.8 times as many theft calls, and twice the number of calls for violent behavior as those neighborhoods without vacant properties."[26]
- The Las Vegas police received 43% more complaints in 2015 about squatting than in 2014 and more than twice as many as in 2012, and report "a direct correlation between

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[23] Id.

[24] G. Thomas Kingsley, Robin Smith, & David Price, The Urban Institute, The Impacts of Foreclosures on Families and Communities 18 (May 2009), *available at* http://www.urban.org/sites/default/files/alfresco/publication-pdfs/411909-The-Impacts-of-Foreclosures-on-Families-and-Communities.PDF.

[25] NYU Furman Center, *supra* n. 20, at 3.

[26] Joseph Schilling, Code Enforcement and Community Stabilization: The Forgotten First Responders to Vacant and Foreclosed Homes, 2 Alb. Gov't L. Rev. 101, 110 (2009).

> squatter houses and crime – burglaries, theft, robberies, narcotics."[27]

In addition to a spike in violent crime, vacant foreclosed properties have also been linked to an increased risk of fire and arson. "Some vacant building fires are the result of arson by owners seeking to make insurance claims and others are set by vandals . many fires are also started by squatters for cooking or keeping warm in buildings without utilities."[28] Between just 2006 and 2008, for example, "[t]he U.S. Fire Administration estimates that there were 28,000 fires annually in vacant residences . . [and that] 45 deaths, 225 injuries, and $900 million in property damage result from these fires each year."[29] These fires endanger residents and first responders alike.[30]

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[27] Ian Lovett, *Squatters See a New Frontier in the Empty Homes of Las Vegas*, N.Y. Times, May 15, 2016, http://www.nytimes.com/2016/05/15/us/las-vegas-squatters-housing-collapse.html (quoting Lt. Nick Farese).

[28] Apgar, *supra* n. 16, at 21.

[29] Fudge, *supra* n. 22; Schilling, *supra* n. 26 ("Annually, there is over $73 million in property damage as a result of more than 12,000 fires in abandoned structures.").

[30] *See, e.g.*, Nat'l Vacant Properties Campaign, *supra* n. 19, at 4 (6 firefighters died in a fire in a vacant building); James J. Kelly, Jr., *A Continuum in Remedies: Reconnecting Vacant Houses to the Market*, 33 St. Louis U. Pub. L. Rev. 109, 113 (2013) (15 families on Cleveland's west side were left homeless by a gas explosion in a vacant house ransacked by a thief stealing copper and appliances); Tom Wright-Piersanti, *Vacant house collapses, 3 others damaged in Newark fire*, NJ.com, Apr. 13, 2014, http://www.nj.com/essex/index.ssf/2014/04/house_



Source: City of Miami Files – Foreclosed Homes

The crimes and fires from foreclosed and vacant properties require a significant investment of law enforcement resources, diverting their limited resources from other community needs and concerns. And it is costly to municipalities. Just some of the direct costs to municipalities as a result of widespread foreclosures include: "increased policing; increased burden on fire departments (due to vandalism and/or arson); demolition costs; building inspectors; legal expenses; costs associated with managing the foreclosure process or resulting from it (e.g., record-keeping/updating); and increased demand for city social service programs."[31] To take just two examples of cities that have been studied,

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collapses_3_others_damaged_in_newark_fire.html (1 house destroyed and 3 others damaged).

[31] Apgar, *supra* n. 16, at 10-11. *See also* U.S. Gov't Accountability Off., *supra* n. 12, at 43.

"Toledo incurs a conservative estimate of approximately $3.8 million dollars per year in simple direct code enforcement, police, and fire costs associated with vacant properties."[32] And Atlanta spends approximately $5.7 million per year on police, fire, code enforcement, and clean-up for distressed, vacant properties.[33]

II. THE EFFECTS OF THE FORECLOSURE CRISIS IN MIAMI ARE DIRE

For *amici*, working on the ground as police officers and firefighters in Miami, the effects of the foreclosure crisis track the documented national trend described above: foreclosures lead to increased crime, fire, neighborhood blight, and threats to public safety.

The recent foreclosure crisis has been particularly acute in Miami. Miami was "one of the hardest hit" by foreclosures, according to a nationwide study.[34]

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[32] Ctr. for Cmty. Progress, A Conservative Analysis of Costs Imposed By Vacant and Blighted Properties in Toledo: Conducted at the Invitation of the Junction Neighborhood 10 (June 2016), *available at* http://www.communityprogress.net/filebin/160630_TASP_LCLRC_Toledo_Cost_of_Blight_Study_Final.pdf.

[33] Dan Immergluck, The Cost of Vacant and Blighted Properties in Atlanta: A Conservative Analysis of Service and Spillover Costs 23 (Sept. 1, 2015), *available at* https://www.scribd.com/embeds/299345642/content?start_page=1&view_mode=scroll&access_key=key-PLqjIS9RIVEkWyXiwhBx&show_recommendations=false.

[34] Nat'l Fair Housing Alliance, *supra* n. 9, at 27.

This has led to a "glut" of properties foreclosed on by the banks and left vacant for long periods of time.[35]

All too often, the banks who own foreclosed homes provide little to no upkeep on these properties, further decreasing their value and increasing their potential for blight and crime. A local study "found more than 10,300 property code violations lodged against banks in 10 South Florida cities."[36] A study by the National Fair Housing Alliance found that bank-owned properties in Miami were particularly derelict and unmaintained in minority neighborhoods, with broken windows and unsecured doors far more common in African-American and Latino neighborhoods than in White neighborhoods.[37] When homes are not secured, they "face vandalism, unauthorized occupancy, and criminal activity."[38]

As a result, a local newspaper concluded that "[t]housands of vacant homes across South Florida"—foreclosed homes now owned by "some of the world's biggest banks"—"have deteriorated into eyesores that violate local health and safety laws, depress property values and spread blight."[39]

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[35] *Id.* at 27 (the term "REO" refers to "real-estate owned" properties, *i.e.* foreclosed properties that are now owned by banks).

[36] O'Matz, *supra* n. 2.

[37] Nat'l Fair Housing Alliance, *supra* n. 9, at 27.

[38] *Id.* at 15.

[39] O'Matz, *supra* n. 2.

Amici have directly experienced how the collapse of the housing market led to a spike in violent crime in Miami. Their understaffed police department has had to respond to protect the public and take on the increased threats to officer safety posed by abandoned homes. In August 2013, for example, a teenage girl on her way home in Miami was forced into a foreclosed, vacant house and sexually assaulted over the course of two hours.[40] Miami police believe the assailant took advantage of the vacant, unsecured "filthy home . . . [with] smeared handprints on the wall, garbage, filthy clothing and a mattress."[41] An 11-year old girl was sexually assaulted in another vacant home in Miami earlier the same year.[42] In July 2015, a mentally ill woman was assaulted in a vacant home in Miami by a gang who "beat, kicked and dragged her before raping her multiple times, leaving her lifeless body on the front porch."[43] Last year, a woman was found dead after a fire swept through an abandoned duplex home in Miami where she had apparently been living.[44] In another incident, two bodies were found in the backyard of a boarded-up Miami home after neighbors heard gunfire during the night.[45] Miami

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[40] Miami Police Release Sketch, supra n. 6.

[41] Id.

[42] Miami PD Looking For 2 People, supra n. 6.

[43] Jones, *supra* n. 6.

[44] *Woman Found Dead in Homestead Duplex Fire*, NBC Miami, Aug. 18, 2015, http://www.nbcmiami.com/news/local/1-Killed-in-Homestead-Duplex-Fire-322137462.html.

[45] Two Bodies Found, supra n. 7.

was also targeted by a serial arsonist, who torched several vacant buildings.[46]

Foreclosed vacant properties also raise distinct concerns due to Miami's tropical climate. Unsecured objects in vacant homes become dangerous flying debris when tropical storms and hurricanes hit.[47] There is strong evidence that pools in abandoned homes in Miami have become breeding grounds for the mosquitos that triggered the outbreak of Zika; as a Harvard researcher has shown, the Wynwood neighborhood in Miami—the epicenter of the Zika outbreak—corresponds with the "highest rates of residential vacancy" in Miami, a vacancy rate of 10% as compared to the national average of 2.1%.[48] Other studies have documented that recent outbreaks of dengue and chikungunya in Florida are also linked to abandoned pools turning into mosquito breeding grounds.[49]

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[46] *Miami Beach Police Arrest Alleged Serial Arsonist*, CBS Miami, Feb. 17, 2011, http://miami.cbslocal.com/2011/02/17/miami-beach-police-arrest-alleged-arsonist/.

[47] Linda Trischitta, *Live near an abandoned home with dangerous debris? If hurricane threatens, call your city*, South Florida Sun-Sentinel, May 29, 2009, http://articles.sun-sentinel.com/2009-05-29/news/sfl-eyesores-hurricane-052809_1_house-near-swinton-avenue-mcclenehan-or-other-homeowners-mcclenehan-and-al-berg. *See also* Pinkston, *supra* n. 5, at 637–38.

[48] Jay, *supra* n. 5.

[49] *See* Shah, *supra* n. 5; Gabrielle Sarann, *Residents in WPB worry about standing water on vacant properties*, WPTV West Palm Beach, Sep. 8, 2016, http://www.wptv.com/news/



Source: City of Miami Files – Foreclosed Homes

III. FIRST RESPONDERS HAD TO DO MORE WITH LESS

Even worse, just as demands for *amici*'s services are rising, they find themselves under-resourced and under-staffed to respond to these increased public safety threats.

It is well documented that foreclosed, vacant properties "lower communities' tax revenues due to the decline in value of surrounding properties."[50] In Miami, the City experienced a precipitous drop in *ad valorem* property tax revenues as a result of the

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region-c-palm-beach-county/west-palm-beach/residents-in-wpb-worry-about-standing-water-on-vacant-properties.

[50] U.S. Gov't Accountability Off., *supra* n. 12, at 2. *See also* Apgar, *supra* n. 16, at 11 ("Foreclosure also leads to a direct loss of tax revenues.").

foreclosure crisis. As a result, the City invoked a previously unused provision in the Florida Public Employee Labor Relations Act known as the "financial urgency" law (Fla. Stat. § 447.4095) and demanded that *amici* renegotiate their collective bargaining agreements. This triggered wage reductions of on average $10,000 for each member of the police department, increased health insurance premiums and co-payments (due to reduced contributions from the City), and reduced retirement benefits, totaling approximately $25 million per year for *amicus* Fraternal Order of Police's members. Comparable reductions in wages and retirement benefits were imposed on the City's firefighters, who are members of *amicus* Florida Professional Firefighters.

These cuts in pay and benefits prompted an exodus of senior officers from the force, depleting the number of officers and the institutional knowledge and experience available to respond to the increased risks of public safety in high foreclosure areas, including property and drug crimes.[51] And, like other police officers across the country, Miami's officers have experienced a decline in funding for police training and officer safety equipment.[52] *Amici* find "themselves in a Hobson's choice between

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[51] *See* U.S. Dept. of Justice Cmty. Oriented Policing Services (COPS), The Impact of the Economic Downturn on American Police Agencies (Oct. 2011), *available at* http://www.ncdsv.org/images/COPS_ImpactOfTheEconomicDownturnOnAmericanPoliceAgencies_10-2011.pdf.

[52] *Id.*

ignoring the problems associated with property vacancy or allocating law enforcement, fire, and other services in disproportionate measures to areas surrounding vacant buildings."[53]

As *amici*'s experience illustrates, Bank of America's and Wells Fargo's discriminatory lending practices have directly injured Miami, "threatening its ability to bear the costs of local government and to provide services" and endangering its "stability" in ways that are comparable to harms this Court held were sufficient to confer standing under the FHA. *See Gladstone*, 441 U.S. at 110-11.

CONCLUSION

The effects of rampant foreclosures and the resulting vacant properties caused by Bank of America's and Wells Fargo's discriminatory lending practices have triggered massive public safety costs for Miami's residents, police officers, and firefighters. *Amici* urge this Court to uphold the Eleventh Circuit's rulings that the City has standing under the Fair Housing Act to seek compensation for these harms.

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[53] Keith H. Hirokawa & Ira Gonzalez, *Regulating Vacant Property*, 42 Urb. Law. 627, 629 (2010). *See also* Schilling, *supra* n. 26, at 112; Patrik Jonsson, *Vacant homes spread blight in suburb and city alike*, Christian Science Monitor, Jul. 2, 2008, http://www.csmonitor.com/USA/2008/0702/p01s01-usgn.html.

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